

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

BRIEF FOR APPELLANT AND JOINT APPENDIX

IN THE
UNITED STATES COURT OF APPEALS

FOR THE DISTRICT OF COLUMBIA CIRCUIT

United States Court of Appeals

For the

District of Columbia Circuit

No. 12,219

FILED

DEC 1 1954

Joseph W. Stewart
CLERK

MOSES W. YOUNG, *Appellant,*

v.

RUTH M. YOUNG, *Appellee.*

151

Appeal from Judgment of the United States District Court
for the District of Columbia

GEORGE B. PARKS,
730 Fifth Street, N.W.,
Washington 1, D. C.

No. 12,219

STATEMENT OF QUESTIONS PRESENTED

The questions presented are whether, in a complaint for limited divorce:

(1) The Court can grant temporary alimony on a non-verified application, or unsworn testimony and evidence.

(2) Whether temporary maintenance can be granted as incident to a suit for limited divorce.

(3) Whether temporary alimony can be granted when the complaint for limited divorce does not state a cause of action.

(4) Whether temporary alimony can be granted as a matter of course and without inquiry into the merits when the wife has independent resources.

(5) Whether the Court was guilty of abuse of discretion in awarding temporary alimony without passing on the merits of the case, or inquiring into the merits of the case where the wife had separate funds of her own.

(6) Whether the Court can grant temporary maintenance in a complaint for limited divorce incident to a complaint for limited divorce where the wife does not allege and prove that the husband has failed and refused to support her, although able to do so.

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IN THE
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No. 12,219

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RUTH M. YOUNG, *Appellee*.

**Appeal from Judgment of the United States District Court
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JURISDICTIONAL STATEMENT

The jurisdiction of this Court is invoked under Title 28, United States Code, Section 1291-1292, providing for appeals from final decisions of the District Courts of the United States to the United States Court of Appeals.

Jurisdiction is likewise invoked under Title 16, Sections 403, 410 and 415 of the District of Columbia Code wherein the appellee filed complaint for limited divorce and incident thereto, a motion for maintenance and counsel fees, pendente lite, and upon the granting of said motion and the issuance of an order therefrom, the appellant appeals.

STATEMENT OF CASE

The appellee filed a complaint for limited divorce alleging, among other things, that the appellant, defendant below, "has threatened physical violence, has used most abusive and violent language and he has also made unjust

and untrue accusations, all of which have caused her great emotional strain and have affected her health." In her prayers for relief she requested an award for limited divorce, maintenance and counsel fees, pendente lite.

The appellee likewise filed a motion for maintenance, pendente lite, stating that she was without funds, unemployed and unable to defray legal costs; said motion was not verified nor was an affidavit in support of motion annexed thereto, but instead was signed only by appellee's counsel; upon the granting of said motion this appeal was taken.

STATUTES INVOLVED

Title 16, Section 403.

Causes for divorce a vinculo and for divorce a mensa et thoro and for annulling marriages.

"A divorce from the bond of marriage or a legal separation from the bed and board may be granted for adultery, desertion for two years, voluntary separation from bed and board for five consecutive years without cohabitation, final conviction of a felony involving moral turpitude and sentence for not less than two years to a penal institution which is served in whole or in part. A legal separation from bed and board may be granted for cruelty."

Title 16, Section 410.

Alimony pendente lite—Suit Money—Counsel fees—Enforcement—Enjoining disposition and sequestration of property—Custody of children.

"During the pendency of a suit for divorce, or a suit by the husband to declare the marriage null and void, where the nullity is denied by the wife, the court shall have power to require the husband to pay alimony to the wife for the maintenance of herself and their minor children committed to her care, and suit money, including counsel fees, to

enable her to conduct her case, whether she be plaintiff or defendant, and to enforce obedience to any order in regard thereto by attachment and imprisonment for disobedience."

Title 16, Section 415.

Maintenance of wife and minor children—Enforcement.

"Whenever any husband shall fail or refuse to maintain his wife and minor children, if any, although able so to do, the court, on application of the wife, pendente lite and permanently, may decree that he shall pay her, periodically, such sums as would be allowed to her as pendente lite or permanent alimony in case of divorce for the maintenance of herself and the minor children, if any, committed to her care by the court, and the payment thereof may be enforced in the same manner as directed in regard to the payment of permanent alimony."

STATEMENT OF POINTS

1. The Court should not grant temporary alimony on an unverified application or upon unsworn testimony and without preliminary inquiry into the merits of the litigation where the wife has resources of her own.

2. That temporary maintenance cannot be granted as an incident to a suit for limited divorce.

3. That temporary alimony cannot be granted as a matter of course.

4. That temporary maintenance cannot be granted a wife until a showing has been made that the husband, although able to do so, has refused.

5. That temporary alimony cannot be granted as a matter of course; that in so granting, the movant must sustain the burden of proof.

SUMMARY OF ARGUMENT

The appellee, plaintiff below, filed a complaint for limited divorce on the grounds of cruelty and annexed thereto was a motion for maintenance pendente lite, which motion contained no affidavit in support thereof, signed only by counsel for the plaintiff. The complaint therein did not allege any facts concerning the plaintiff wife's need for support, and the motion only alleged that she was without funds, unemployed, and unable to pay counsel fees. The appellant's answer denied allegations in the complaint—that was the status of the record, with the exception of the Domestic Relations Commissioner's report when the motion for maintenance pendente lite came on for hearing before the Honorable Trial Judge.

The appellant appeals from an order granting alimony pendente lite as result of a motion for maintenance pendente lite, which was incident to complaint for limited divorce.

It is the position of counsel for appellant that maintenance pendente lite cannot be granted as an incident to a suit for limited divorce; that alimony pendente lite cannot be granted when there is a showing in the record that the wife has funds of her own, without a preliminary inquiry into the merits of the case, and that a prima facie case must be shown on behalf of the wife to justify an award for alimony pendente lite.

The lower Court on its own initiative took the position that the motion was one for alimony pendente lite, however, in the course of argument, as a matter of course, the Court treated it as maintenance pendente lite. Likewise, the Court took the position that alimony pendente lite would be granted as a matter of course.

It is the position of the appellant that alimony pendente lite cannot be granted as a matter of course and that the limited jurisdiction of the court to grant the order herein was abused. This appeal does not raise the question of the abuse of the Court's discretion in the amount of the

award, it concerns itself solely with the right of the Court to make an award. The record herein shows no justification whatsoever for the Court to enter an award either for alimony pendente lite or maintenance pendente lite. If the motion be one for maintenance pendente lite, then it did not comply with Title 16, Section 415 of the Code of Laws for the District of Columbia. If the motion be one for alimony pendente lite, then the preliminary inquiry concerning the wife's necessities, the preliminary inquiry into the merits and the showing of a prima facie case were lacking.

ARGUMENT

The plaintiff below, appellee in this court, filed a complaint for limited divorce alleging "that the defendant has threatened physical violence, has used most abusive and violent language, and he has also made unjust and untrue accusations, all of which have caused her great emotional strain and has affected her health." Annexed to her complaint was motion for maintenance pendente lite, stating that she is without funds, unemployed and unable to defray legal cost; said motion was signed by plaintiff's counsel. The matter was then and there referred to the Domestic Relations Commissioner (Rule 9H of the Rules of United States District Court for the District of Columbia); as result of the Commissioner's investigation, a report and recommendation was made in this cause.

The matter came on for hearing on the motion for maintenance before the Honorable Edward M. Curran, United States District Judge, and as result of said hearing, the court ordered the defendant, appellant herein, to pay \$100.00 per month, plus the utilities and insurance. (See page 9 of the joint appendix). At the time of the hearing on said motion, it was called to the Trial Court's attention that before the Court was a motion for maintenance pendente lite, incident to a suit for limited divorce, and the Court was then and there requested to examine the record before him and ascertain first of all whether or not

he had before him sufficient evidence upon which to base an order, and too, whether or not a motion for maintenance could be granted in a divorce case. (See page 2 of joint appendix).

The Court then and there took the position that the motion was one not for maintenance but for alimony, and with that in mind, the Court's attention was called to the fact that it was incumbent upon the plaintiff to show the "necessity" for alimony pendente lite. The Court was further advised that in a suit for limited divorce on the ground of cruelty, wherein alimony pendente lite is requested, some preliminary inquiry is and should be made, and the Court should be satisfied that a meritorious cause of action entitling the plaintiff to relief be shown. (See *Pedersen v. Pedersen*, 107 F. (2d) 227, 71 App. D. C. 26). As result of said hearing the Court entered an order for alimony pendente lite incident to a motion for maintenance pendente lite. The Court stated:

"I will grant your motion pendente lite, \$100 per month plus utilities and insurance." (See page 9 of joint appendix).

The order, however, provided for the payment of \$100 per month, plus payment of the first trust, payment for water, payment for utilities, payment for the insurance. Upon the entry of said order, the appellant filed a motion to reconsider, which is a part of the record before the Court. The motion to reconsider, which was supported by the defendant's—appellant's affidavit requested the Trial Court to vacate its order or make findings of facts and conclusions of law, which motion was denied without hearing.

The Court should not grant temporary alimony on an unverified application or upon unsworn testimony without preliminary inquiry into the merits of the litigation, especially so where the wife has resources of her own. The better practice is to take actual testimony as to the issues

involved before the court or before a referee appointed; the latter, since affidavits are not a satisfactory form of evidence. (See *Arendall v. Arendall*, 54 So. 957, 17 Am. Jr., page 534).

It should be noted at the outset that it is the position of the appellant that a prima facie case justifying the issuance of an order for alimony pendente lite was not made. While temporary alimony *may* be allowed without inquiry into the merits of the case, yet a prima facie case must be shown in behalf of the wife. (See *Floyd v. Floyd*, 180 So. 896; *Miller v. Miller*, 138 A. 22).

It is interesting to note in this connection that the above theory was called to the Trial Judge's attention, and further, the Court treated the matter of alimony pendente lite and maintenance pendente lite interchangeably, when the distinction between the two are important. (See page 2 of joint appendix). If the complaint be one for maintenance, then in order to state a cause of action, it must be alleged that the husband has refused to support his wife, although able to do so, (See Title 16, Section 415, D. C. Code), and under the statute the power of the Court to grant separate maintenance pendente lite can be exercised *only* where the husband shall fail or refuse to maintain his wife, although able to do so. (See *Towson v. Towson*, 49 App. D. C. 45, 258 Fed. 517), (*Italics supplied*). Therefore, the present motion for maintenance pendente lite did not allege facts sufficient to justify the issuance of the order.

The discretion given to a court to award alimony or maintenance pendente lite is more limited than the discretion as to the amount. (See *Pedersen v. Pedersen*, 107 F. (2d) 227, 236). The Court, therefore, abused its limited discretion in issuing the order herein complained of.

The Court treated the motion in one instance as a motion for alimony pendente lite, which is authorized under our statute, (Title 16, Section 410, D. C. Code), and of course,

where the record shows that the wife has separate funds, then the court cannot grant alimony pendente lite without preliminary inquiry into the merits. (See *Sparks v. Sparks*, 25 App. D. C. 356). The lower Court took the position that the appellee, wife, was entitled to alimony as a matter of course, (See page 2 of joint appendix), however, since the married women's property act, these allowances did not come as a matter of course, *but are granted upon a showing of necessity*, and if the wife has sufficient means of her own, they will not be granted. (*Arnold v. Arnold*, 222 S.W. 966; *Shearer v. Shearer*, 99 S.E. 754; *Pedersen v. Pedersen*, 170 F. (2d) 227).

It is interesting to note that the record is completely void of any necessitous circumstance—joint appendix contains the entire colloquy. It is the position of the counsel for the appellant now, as it was before the lower court, that the record before the lower court and now before this court did not show sufficient facts to justify the issuance of an order, (See page 6 of the joint appendix), and therefore, the prima facie case was not shown on behalf of the wife for alimony pendente lite. The lower Court took the position, however, that the burden of proof rested on the defendant, appellant herein, however, the burden of proof was clearly upon the wife to show either that the husband had refused to support her, although able to do so, or that she had insufficient means to support herself and was of "necessitous circumstance."

Appellant therefore respectfully submits that if the motion herein complained of be for maintenance pendente lite, then the statutory requirements were not met; if the motion be for alimony pendente lite, then the burden of proof, the evidence necessary and facts justifying same were not presented.

Finally, appellant respectfully submits that the procedure adopted by the Trial Court in this case should not and cannot be sanctioned by this Court or in any way

condoned for it cannot be said that said procedure is in compliance with the decisions herein cited, and therefore urge reversal of the lower court.

Respectfully submitted,

GEORGE B. PARKS,
Attorney for Appellant.

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIARUTH M. YOUNG, *Plaintiff*,

v.

DR. MOSES W. YOUNG, *Defendant*.

Civil Action No. 5715-43.

Washington, D. C., February 26, 1954.

The above-entitled matter came on for hearing on motion for alimony pendente lite, before the Hon. Edward M. Curran, United States District Judge, at 11:45 o'clock a.m.

Appearances: On behalf of the Plaintiff: James J. Laughlin, Esq.; On behalf of the Defendant: George B. Parks, Esq.

PROCEEDINGS

Deputy Court Clerk: Young v. Young.

Mr. Laughlin: My thought is on this present case, I suggested to Mr. Parks, he made no objection to the Report of the Domestic Relations Commissioner, I am willing that that be adopted, Your Honor.

Mr. Parks: Your Honor, I oppose the report and the recommendation, I wanted you to have the report before you, that is the reason I didn't object to it.

The Court: You mean you oppose the recommendation?

Mr. Parks: Yes, sir, may it please the Court. I would like to be heard on the matter, as I indicated on the motions card.

The Court: You don't take the position she should not be supported pendente lite?

Mr. Parks: No, I do not, if it please the Court, but there are certain things that I would like to point out to

the Court. Of course, inasmuch as I have indicated that I don't think she should—I don't want to lead the Court to believe that this defendant does not want to support his wife, he made the statement before the Commissioner that he is willing to contribute any reasonable amount.

The Court: The recommendation made is very reasonable.

Mr. Laughlin: I was going to say, as far as my argument is concerned, Your Honor, I have nothing to add to the report. These are very intelligent people, very well
3 educated, he is a professor at Howard and I think the wife—

The Court: What do you want to say about \$100 a month for maintenance when the wife is not working and his income is \$552.50?

Mr. Parks: Quite frankly, it is not \$552.50, there is a little miscalculation there, \$35 or \$40 off.

The Court: All right, we will take the \$35 off.

Mr. Parks: However, I want to call the entire report to Your Honor's attention, if Your Honor will hear me, please.

The Court: Go ahead.

Mr. Parks: First of all, this motion is based on statements of counsel for the plaintiff. He indicates that the plaintiff is without funds and is unable to defray legal costs. So therefore, I take it that the motion is based on strictly counsel's statement, the motion for maintenance pendente lite, which is in effect a motion for alimony because this is a divorce case and not a maintenance case; that distinction, I think, is important.

The Court: All right, we will give her alimony.

Mr. Parks: Now, with reference to that, if it please the Court, I want to indicate to the Court the report indicates that the parties hereto are living under the same roof but in separate quarters. The possibility of reconciliation, both parties indicate that conditionally that they are ready to reconcile.

4 I might indicate further to the Court that this complaint was filed in December of 1953 and the parties to this case came back in this country in October, least the defendant came back in the country in October of 1953. There has been no bona fide attempt, I say unequivocally to the Court, to reconcile these parties.

The plaintiff, in her statement to the Domestic Relations Commissioner indicates that she buys the majority of her food, and I underscore that word majority, if it please the Court, because she doesn't say that the defendant at any time has refused to give her money that she has requested. Nowhere in this record can Your Honor find that.

The husband's statement before the Commissioner, my statement on his behalf before the Court, is that he has given her all the money that she has requested of him. In addition to that, she has shelter, she has all the necessities of life in addition to frequent trips back and forth to New York, as appears in the Domestic Relations Commissioner's report and she is not by any means a destitute person. She indicates to the Court that she has savings of some \$400. The Domestic Relations Commissioner's report is based on her statement that she spends \$65 a month for food, \$15 a month for transportation, and I think that might be under-estimated because she probably is including the trips back and forth to New York because I can't see how you could spend \$15 a month transportation here in the District of Columbia.

5 The Court: Just a minute. Is he supporting her now?

Mr. Laughlin: No, he is not supporting her, Your Honor. We wouldn't be here, if that were so.

Mr. Parks: There is nothing in the record to show he is not supporting her.

Mr. Laughlin: Your Honor, we wouldn't be here if that were so.

Mr. Parks: Your Honor, I ask counsel to show the Court where you can find in the record that he is not supporting

her. That is the key to this particular case, if it please the Court.

The Court: This is a suit for limited divorce for cruelty. Now pending the suit, of course, she is entitled to be supported. Mr. Laughlin says he is not, you say that he is.

Mr. Parks: If it please the Court, this is his motion, I think it incumbent upon him to show the Court and I think the Court—

The Court: Is she here today?

Mr. Laughlin: No, Your Honor. Had there been an objection to this report—she was perfectly willing, she called me last night—had there been an objection to this report, we would have done one or two things, proceed with affidavits or had her here personally.

Mr. Parks called me and said he would be late, he had to get a tooth pulled. I said I had no objection, it could come on later. So of necessity, of course, we couldn't
6 get her here now, but the matter was all gone into fully before the Domestic Relations Commissioner, Your Honor.

Mr. Parks: Your Honor, I might indicate that, as far as this motion for alimony pendente lite is concerned, look at the complaint. The complaint in no way gives the Court any authority upon which to base an order, it just simply indicates in very brief terms in paragraph 5 that he has threatened physical violence, he has used violent language, made unjust accusations and caused her mental strain. It asks for a limited divorce, maintenance and counsel fees; that is all the complaint says.

The Court: What do you want, to ask for something else?

Mr. Parks: I think the Court should have before it some facts showing on the part of this defendant to support her.

The Court: She says in her statement before the Domestic Relations Commissioner, and you have filed no objection to it, that the defendant has maintained the payments on the house, she is uncertain whether or not the balance has

been paid, that he has paid the utilities and the general maintenance bills, but that she buys the majority of the food because the parties do not eat at the same table.

Now, what do you want, testimony taken?

Mr. Parks: I frankly say to the Court that in order to justify alimony pendente lite, according to the decisions of this Court of long standing, that there must be some showing either in affidavit form, that the husband has refused to maintain the wife under her circumstances.

I want to call Your Honor's attention to the statements before the Domestic Relations Commissioner. I appeared with my client and paragraph three of the wife's statement as quoted by the Domestic Relations Commissioner says this:

"says she was employed as a teacher at Howard University until June, 1952, at which time her contract was not renewed; that during the 15 years of her teaching experience she supported herself," and so forth.

Now, the Commissioner told me that she informed him the reason why she wasn't teaching at Howard at present was because of change in the political administration. He told me that yet he makes a statement of facts that the reason why she is not teaching is because her contract was not renewed.

The Court: The change in political administration was the reason they didn't renew the contract?

Mr. Parks: You mentioned the fact she had been before the Domestic Relations Commissioner and they had made the findings.

The Court: Do you want a hearing? I may give a hearing and award \$150 a month, I don't know what I am going to do.

Mr. Parks: I am certain Your Honor will award a fair amount when you have sufficient facts before you. I am not concerned about the money because he is willing to

take care of his wife, as he is presently doing. He is paying maid service, sending clothes to the laundry, paying the laundry bill, they are living together as much as any man and wife can live together but for the fact they are living in separate rooms.

The Court: Well, under the Parks case, they can do it.

Mr. Parks: Five year voluntary separation was the Parks case, Your Honor, and this is a maintenance order.

The Court: This is a suit for limited divorce on grounds of cruelty.

Mr. Parks: I simply indicate to the Court you don't have the factual situation to justify an order.

The Court: I said I would give you a hearing, if you want it.

Mr. Parks: Then, I prefer Your Honor set it down.

Mr. Laughlin: Your Honor, before you do that, this is a sample of what Mrs. Young has had to go through from the outset. If Your Honor will look at the complaint, he boasted that no marshal would ever serve him.

Mr. Parks: Counsel, I would appreciate it if you would put that on the record and swear to it.

Mr. Laughlin: I will put you on the stand in a moment.

The Court: Wait a minute, nobody is going to put anybody on the stand, it has nothing to do with alimony pendente lite.

Mr. Laughlin: We couldn't serve him at his residence and the marshal that they couldn't serve him at Howard University. After weeks passed, I took it up with Mr.

Matthews and he sent a deputy out himself, one of his better deputies, and there was a service at that time. Then after that happened, Your Honor, Mr. Parks served us notice that he wanted to take the deposition of Mrs. Young. I said yes, I will produce her, but at the same time I want the deposition of Dr. Young. He said, "Oh, well, we will call the whole thing off."

So, therefore, I had been led to believe, Your Honor, that there would be no contest. I would have had Mrs. Young

here, she has been in touch with me each day. So I would ask Your Honor to set the date at the earliest possible, the next two or three days, if you could. We will go to the jury in the other case on Wednesday.

The Court: I will set it for your convenience.

Mr. Laughlin: All right. Then, Your Honor, I would suggest, suppose not later than Thursday, the fourth.

The Court: You had better make it a week.

Mr. Laughlin: One week from today and, Your Honor, I am going to ask for a much higher award at that time.

Mr. Parks: Your Honor, I might call the Court's attention to the fact that I indicated to counsel Wednesday of this week that I was late because I went to the doctor. I am expecting to go to the hospital Wednesday, it is not certain, but I want to call that to the Court's attention, but that is earnest and genuine. Under the circumstances of this case, I don't have twenty-five cases.

The Court: You are not going to be here Friday?

Mr. Parks: I don't think I will be here Friday; I don't know, but I want to advise the Court of that and
10 not notify you Friday morning.

The Court: When are we going to have this hearing? How long are you going to be in the hospital?

Mr. Parks: I will be there a week, if I go Wednesday, may it please the Court, a week from this coming Wednesday. They made tests this morning, that is why I was late.

Mr. Laughlin: Your Honor, have this hearing Tuesday and I will have Mr. Ahern take it.

The Court: Tuesday morning at 10 o'clock.

(Thereupon, the foregoing proceedings were concluded.)

* * * * *

12 Deputy Court Clerk: Young v. Young.

Mr. Ahern: Your Honor, apparently this came on before Your Honor at some prior time. This is Mr. Laughlin's case, and from what I can gather, Your Honor indicated that it might be helpful if testimony was heard. I

consulted with Mrs. Young, I don't see Mr. Young here, and I am content, Your Honor, to rest on the record as made. There were no objections to the report of the Domestic Relations Commissioner.

I would ask Your Honor, based on his earnings as set forth in the file, that he pay \$100 a month to the plaintiff and, as indicated in the Domestic Relations report, that he make payments on the first trust, payments for the water, utilities and payments for insurance.

I think that sums up my proposition.

The Court: All right.

Mr. Parks: If it please the Court, under the circumstances I can only renew the objections that I stated to the Court Friday, namely, that it is the position of the defendant that the record does not show sufficient evidence for the Court to base an award, especially in view of the Domestic Relations Commissioner's report. I don't think the failure to file objections to the report can be construed as an admission.

The Court: You wanted a hearing. What do you want to put on? You are the one who asked for the hearing.

13 Mr. Parks: If that be the case, may it please the Court, I am misinformed, for this reason—

The Court: Misinformed, about what?

Mr. Parks: My position originally and as of now is that there is no basis in the record for the Court to make an award. I do so in the light of the theory of alimony, when it is shown, alimony pendente lite, when it is shown the wife has money of her own. From the ecclesiastical authorities, who originally granted alimony, to the present decisions today, the Court has conclusively held when the wife has property of her own and there is a showing on the record, the Court has no authority to award alimony.

The Court: This is for maintenance pendente lite, isn't it?

Mr. Parks: This is alimony, may it please the Court.

The Court: All right. You asked for a hearing. Do you want to put any testimony on?

Mr. Parks: I have no testimony to put on.

The Court: What are you wasting my time for?

Mr. Parks: I apologize, if it please the Court, I indicated to the Court that there wasn't sufficient evidence in the record upon which the Court could base an award. At that point, the problem arose of taking of testimony.

The Court: Who asked for the taking of testimony?

Mr. Parks: It is my opinion, if it please the Court,
14 that I did not ask for the testimony. You said would
testimony be necessary in this case and I said that I
think testimony should be had.

The Court: What testimony do you want to put on?

Mr. Parks: I have no testimony to offer, may it please the Court.

The Court: I will grant your motion pendente lite, \$100 a month plus the utilities and the insurance.

Prepare the proper order.

Mr. Ahern: I have an order, Your Honor.

(The order was handed to the Court.)

Mr. Parks: May it please the Court, this order reads motion for maintenance, this is not a motion for maintenance, this is a motion for alimony.

The Court: All right, I will make it alimony.

Mr. Parks: And, of course, that will be alimony pendente lite.

The Court: That is right.

Mr. Parks: Now, he is to pay \$100 per month?

The Court: You are making oral objections to the Domestic Relations Commissioner's report, is that right?

Mr. Parks: Yes, sir, if it please the Court.

The Court: All right:

Mr. Ahern, have that retyped, will you?

Mr. Ahern: I will, Your Honor.

15 Mr. Parks: Your Honor, may I see a copy of it
prior to filing?

The Court: Sure.

(Thereupon, the foregoing proceedings were concluded.)

CERTIFICATE OF OFFICIAL COURT REPORTER

I, Margaret A. Deeds, one of the Official Reporters of the United States District Court for the District of Columbia, hereby certify that the foregoing is the official transcript of the above-entitled proceedings.

Dated this 3rd day of March, 1954.

MARGARET A. DEEDS,
Official Court Reporter.

